

**Deed of Charitable Trust - Katikati Community  
Centre Charitable Trust**

between  
X  
and  
X, X and X

Date :



## Background

- A. The Settlor wishes to establish a charitable trust to be known as *Katikati Community Centre Charitable Trust*
- B. The Original Trustees have agreed to act as the first Trustees of that Trust.

## This deed records

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### 1. Interpretation

1.1 In this Deed unless the context otherwise requires:

<b>Annual Meeting</b>	has the meaning given to it in clause 13.1.
<b>Appointer</b>	has the meaning set out in clause 9.1.
<b>Balance Date</b>	means 31 <sup>st</sup> December or any other date adopted from time to time by the Trustees as the end of the Trust's Financial Year.
<b>Board</b>	means the Trustees of the Katikati Community Centre Charitable Trust established by this Deed and incorporated as a Board pursuant to the Charitable Trust Act 1957 (or, prior to incorporation of the Board pursuant to clause 17, the Board collectively)
<b>Centre Manager</b>	means the manager of the Katikati Community Centre.
<b>Chairperson</b>	means the Chairperson who is the Trustee appointed in accordance with clause 10.1.
<b>Charities Act</b>	means the Charities Act 2005.
<b>Deed</b>	means this deed and including any amendments to it from time to time.
<b>Financial Year</b>	means any year or other accounting period ending on the Balance Date.
<b>month</b>	means calendar month.
<b>officer</b>	means a Chairperson, Secretary or Treasurer holding office pursuant to clause 10.
<b>Purposes</b>	means the charitable purposes of the Trust as set out in clause 5.1 of this Deed.
<b>Tax Act</b>	means the Income Tax Act 2007.

**Trust Assets** means any real and personal property owned or held by the Board on the trusts of this Deed from time to time including such further money or property as may from time to time be added by way of capital or income to be held by the Board upon the Trusts, for the charitable purposes and with the powers as set out in this Deed.

**Trust** means the charitable trust established by this Deed and known as the Katikati Community Centre Charitable Trust.

**Trustees** means the trustee or trustees of the Trust for the time being (including all or any of the Original Trustees who remain as trustees and any additional or substituted trustees).

- 1.2 Clause and other headings are for ease of reference only and shall not be deemed to form any part of the context or to affect the interpretation of this Deed.
- 1.3 References to parties are references to parties to this Deed.
- 1.4 References to persons include references to individuals, companies, corporations, firms, partnerships, joint ventures, associations, organisations, trusts, estates, agencies of state, government departments, state-owned enterprises and municipal authorities in each case whether or not having separate legal personality.
- 1.5 Expressions defined in the main body of this Deed bear the defined meaning in the whole of this Deed including the recitals.
- 1.6 References to clauses and recitals are references to clauses and recitals of this Deed.
- 1.7 References to the singular include the plural and vice versa.
- 1.8 Any obligations not to do anything shall be deemed to include any obligation not to suffer, permit or cause that thing to be done.
- 1.9 References to statute include references to any regulations, orders or notices for the time being in force made under or pursuant to such statute, and references to a statute include references to all amendments to that statute or otherwise, and references to a statute or provision thereof include references to any statute or provision for the time being in force passed in substitution for that statute or provision thereof.

## 2. **Establishment**

- 2.1 The Settlor settles the sum of \$100 on the Board as an initial settlement on the Trust.
- 2.2 The Trustees agree to act as trustees of the Trust on the terms set out in this Deed.
- 2.3 The Trust shall comprise all Trust Assets which shall be held on trust by the Board and shall be managed and administered on the terms set out in this Deed.
- 2.4 The Trust shall commence on the date of this Deed and shall continue until terminated under clause 27.

### 3. **Name of Trust**

3.1 The Trust shall be known as the "Katikati Community Centre Charitable Trust".

### 4. **Office**

4.1 The office of the Trust and the Board shall be at 45 Beach Road, Katikati or such other place as the Board from time to time decides.

### 5. **Charitable Purposes**

5.1 The charitable purposes of the Trust shall be:

To be beneficial to the community by:

Delivering valued services and activities to provide additional support to, and development of, youth in the local area

Providing a neutral trustworthy place where individuals and other groups can find activities and space to develop for the good of the community.

Delivering activities, information and support for individual development and wellbeing

Promoting cultural inclusion and participation through our activities and services

Developing effective partnerships with other stakeholders to weave a resilient and socially connected community

Delivering services, in line with other stakeholders, which achieve planned outcomes

5.2 In interpreting the terms of this Deed:

(a) The Purposes in clause 5.1 shall take precedence.

(b) All other purposes shall be pursued to further the Purposes.

### 6. **Limitation on Purposes**

6.1 The Purposes of this Trust may not extend to any matter or thing which is not charitable within the meaning of the Tax Act or the Charities Act or not carried out within New Zealand.

### 7. **Powers**

7.1 The Board shall in addition to all other powers conferred by law have the widest possible powers and discretions to achieve the Purposes of the Trust and shall be empowered to exercise all the rights, powers and privileges and may incur all the liabilities and obligations of a natural person of full age and capacity.

7.2 Subject to the provisions of this Deed, the Board shall have all powers over and in respect of the Trust and the Trust Assets which it could exercise if it was the absolute and beneficial owner of the Trust Assets. In particular, without derogating from the foregoing and subject to the provisions of this Deed, the Board shall have full and absolute power to do the following:

- (a) To raise money by all means and in particular to solicit, receive and enlist financial or other aid from individuals and organisations, including gifts and bequests from individuals and organisations, and to conduct fundraising activities;
- (b) To promote and further the Purposes by the publication and distribution of papers, journals and other publications and by advertising in any medium or by any other means;
- (c) To make such payments, grants, loans or provide such other financial assistance to any person on such terms and conditions as the Board thinks proper;
- (d) To enter into any arrangements with any government, public or local authority that may seem conducive to the Purposes and to obtain from any such government or authority any rights, privileges or concessions which the Board may think is desirable to obtain, and to carry out and to comply with any such arrangements, privileges, rights and concessions;
- (e) To purchase, sell, lease, or otherwise deal with the Trust Assets on such terms and conditions as the Board thinks fit;
- (f) To maintain the Trust Assets;
- (g) To provide such amenities as considered necessary;
- (h) To operate any lawful trading activity;
- (i) To borrow money or provide guarantees on such terms, conditions or security (including mortgages) as the Board considers appropriate;
- (j) To invest or lend money on such terms as the Board decides and to vary such loans or investments from time to time;
- (k) To subscribe for, pay up and accept shares in any limited liability company and to purchase or otherwise acquire and hold shares in such companies and to join in and become a member of any partnership, joint venture or other business enterprise of which the Board approves. This includes the power to act as a shareholder and exercise all powers of a shareholder;
- (l) To employ and act as a good employer towards any person engaged to carry out the services of the Trust with power to dismiss such person as necessary;
- (m) To contribute to any tax charity (as defined in the Tax Act) having substantially similar purposes as the Purposes;
- (n) To receive from the New Zealand Government or any council, board or body under the jurisdiction thereof or any other government, state or national body or any international organisation, any grant, subsidy or payment whatsoever in order to further the Purposes
- (o) To charge any person for use of the Trust Assets such charges as may be fixed by the Board;
- (p) To join with any other person, group, body or organisation under such arrangement as the Board thinks fit to provide for the Purposes;
- (q) To pay all or any of the reasonable expenses incurred in and in connection with the establishment, incorporation and running of the Trust;

- (r) To insure against loss or damage by any cause whatsoever any insurable property forming part of the Trust Assets, and to insure against any risk or liability against which it would be prudent for a person to insure if he were acting for himself, for such amounts and on such terms as the Board may from time to time think fit;
- (s) To enter into contracts with any other person for the purposes of managing and operating the Trust;
- (t) To instruct agents and consultants to act in relation to the Trust Assets or assets intended to be acquired by the Trust;
- (u) To do the above things as principal, agent, contractor, trustee or otherwise and by or through agents, trustees or otherwise and either alone or in association with others.
- (v) To bank all monies received into the Trust's accounts on behalf of the Trust.
- (w) To apply for and acquire any licences or permits required for the continued operation of the Trust.
- (x) To engage in prosecution, defend and otherwise take any legal proceedings on behalf of the Trust or any affiliated bodies, and for that purpose to extend such monies and employ such solicitors, counsel, and other advisers as the Trust may deem necessary, subject to the approval of the Board.
- (y) To do anything in line with the Trust objectives that is permitted or required to be done by these rules, or by any statute, regulation, or rule of law of Aotearoa/New Zealand

7.3 None of the powers conferred on the Board by this clause shall otherwise be deemed subsidiary or ancillary to any other power or authority and the Board shall be entitled to exercise all or any of the said powers and authorities independently of any other or others of them. In the event of any ambiguity this provision shall be construed so as to widen and not restrict the powers of the Board provided however that at no time shall any provision be construed so as to detract from the charitable purposes of the Trust.

*[\* Option 19 – special trusts\**

### **Special Trusts**

7.4 When property is accepted by the Board upon special trusts to be declared by the donor all the powers and provisions of these presents shall be deemed to be incorporated in the deed declaring such special trusts except insofar as the same shall be expressly excluded or modified or be inconsistent with such special trusts.

## **8. Number of Trustees**

8.1 The number of Trustees shall be not less than 4 nor more than 7. If at any time there are less than 4 Trustees the Appointer shall increase the number of such Trustees to 4 soon as is reasonably practicable. The remaining Trustees shall be entitled to act until the number of Trustees appointed is so increased and no act or decision of the Board shall be called into question on such account provided that such actions are limited to essential administrative matters only.

## 9. Appointment and Removal of Trustees

- 9.1 The power of appointment and removal of new Trustees shall be vested in \*23. *description of person or persons with powers of appointment and removal*\* (**Appointer**).
- 9.2 The Appointer shall appoint and remove Trustees in accordance with the following criteria:
- 9.3 Appointer shall appoint and remove Trustees in accordance with the following criteria:
- (a) Nominations for elected positions on the Board will be via a written nomination seconded by a current member and endorsed by the nominee.
  - (b) Nominations are to be received by the Board Chairman at least 7 days prior to a Trustee meeting at which the nomination will be discussed.
  - (c) After the completion of an initial 3 year term, a Board member may apply to be re-elected for a final 2 year term at the next available Trustee meeting by way of a simple majority.
  - (d) A retired Board member may be eligible for re-election after a minimum of 2 years off the Board.
  - (e) Vacancies on the Board may be filled by appointment by a decision of the majority of current Board members.
  - (f) Such appointments shall be based on the best person for the job, having regard to the skills required on the Board at that time.
- 9.4 A Trustee shall cease to hold office if the Trustee:
- (a) resigns as Trustee by giving written notice to the Chairperson;
  - (b) dies while holding office as a Trustee;
  - (c) becomes bankrupt or enters into any composition or scheme or arrangement with his or her creditors;
  - (d) is convicted of an indictable offence without right of further appeal;
  - (e) becomes of unsound mind or becomes subject to a personal order or a property order under the Protection of Personal and Property Rights Act 1988;
  - (f) is removed by the Appointer;
  - (g) becomes disqualified to be an officer of a charity in accordance with the Charities Act;
  - (h) has been deemed by unanimous vote of the other Trustees that he or she has failed to fulfil his or her duties as a Trustee
  - (i) Is absent from New Zealand for 4 months or more (consequitively) and has not been able to participate in meetings via telephone or web conferencing.

- (j) fails to attend 3 consecutive Board meetings without being granted written leave of absence by the Board.

*[\* Option 27 – appointer may appoint an advisory trustee\**

- 9.5 The Appointer shall also have the power to appoint any person at any time or times as an advisory Trustee provided that any such advisory Trustee shall not vote on any resolution of the Trustees or participate in the management or administration of the Trust Assets.
- 9.6 The Trustees shall record in the Minute Book of the Trust every appointment, reappointment, removal or cessation of office of any Trustee and shall notify Charities Services of all changes of Trustees in accordance with the Charities Act.

## 10. **Appointment and Election of Officers**

- 10.1 The Trustees shall annually appoint one of their number to be Chairperson of the Board to hold office for a period of 2 years from the annual meeting.
- 10.2 The Trustees shall annually appoint one of their number to be Secretary to hold office for a period of 2 years from the annual meeting.
- 10.3 The Trustees shall annually appoint one of their number to be Treasurer to hold office for a period of 2 years from the annual meeting.
- 10.4 The Secretary and Treasurer may be the same person.
- 10.5 Only the Trustees are eligible to be officers of the Board. Any officer of the Board shall automatically cease to hold office upon ceasing to be a Trustee.
- 10.6 A Trustee may resign from an office to which that Trustee has been appointed, without resigning as a Trustee.

## 11. **Duties and Functions of the Board**

- 11.1 The Board shall conduct the business and activities of the Trust in an open and transparent manner.
- 11.2 The Board will set policies and resolve on courses of action and means of implementing the same so as to achieve the Purposes.
- 11.3 The Board will monitor the activities of the Trust to ensure its assets are used as effectively as possible to achieve the Purposes and to demonstrate to those bodies and agencies which fund and support the Trust's activities that the funding and support provided is being effectively applied and utilised.
- 11.4 The Settlor expressly declares that it is its intention that the Trust shall be a perpetual trust but that the Board shall have power to:
  - (a) deal with the income derived from the Trust Assets in accordance with clause 11.5; and
  - (b) pay, appropriate or contribute such portion of the capital of the Trust Assets towards the attainment of the Purposes as the Board considers prudent taking into account the above intention;



provided that nothing in this clause shall restrict the powers of the Board pursuant to clause 27 of this deed.

- 11.5 The Board shall stand possessed of the income derived from the Trust Assets upon the following trusts:
- (a) To pay or apply the same or any part of the current net annual income for or towards the Purposes;
  - (b) To appropriate for any of the Purposes the whole or any part of the net annual income arising from the Trust whether or not the same shall have been received by the Board;
  - (c) To make or retain out of or charge against income in any income year any payments, reserves or any provision of a capital nature for any of the Purposes or incidental to the exercise of any of the powers, authorities or discretions conferred on the Board by this Deed in respect of the Trust Assets;
  - (d) To accumulate the whole or any part of current net annual income derived by the Trust by investing the same in the resulting income therefore to the intent that the Board may elect either:
    - (i) To resort to any accumulated surplus for the same purposes and subject to the same trusts and powers as set out in this Deed as for income; or
    - (ii) To add any accumulated surplus as an accretion to the Trust Assets to be held by the Board upon the same trusts and with the powers declared in this Deed in respect of the capital of the Trust Assets.
- 11.6 In the first year of the Trust, the Board shall complete a draft statement of corporate intent as soon as practicable. Thereafter, the Board shall complete a draft statement of corporate intent at least 4 months before the Balance Date in each year.
- 11.7 Each statement of corporate intent shall be for the immediately following Financial Year and shall specify the following information:
- (a) the Purposes;
  - (b) the nature and scope of the activities to be undertaken;
  - (c) the accounting policies;
  - (d) the performance targets and other measures by which the performance of the Board may be judged in relation to the Purposes;
  - (e) such other matters as decided by the Board.
- 11.8 The Board shall inform the regional trusts or organisations (if any), members (if any), sponsors and contractual parties of the Trust's draft statement of corporate intent not later than 3 months before the commencement of the Financial Year to which it relates. However, in the first year of the Trust such notice shall be given as soon as practicable.

- 11.9 Any comments on the draft statement of corporate intent by the regional trusts or organisations (if any), members (if any), sponsors and contractual parties must be made in writing and must be received by the Board not later than 6 weeks before the commencement of the Financial Year to which it relates. However, in the first year of the Trust such comments on the draft statement of corporate intent must be made in writing and must be received by the Board not later than 6 weeks after receipt of such notice.
- 11.10 The Board shall:
- (a) consider any comments on the draft statement of corporate intent that are made to it; and
  - (b) report on the completed statement of corporate intent (including response and reasons for the response to comments on the draft) at the Annual Meeting.
12. **Proceedings of the Board**
- 12.1 Meetings of the Board shall be held at such times as may be determined from time to time by the Board but must be not less than 1 meeting every 3 months
- 12.2 All meetings of the Board shall be chaired by the Chairperson. Should the Chairperson not be present, those of the Trustees present shall elect an acting chairperson from their number to chair that meeting
- 12.3 All motions will if possible be decided by consensus. In the event that a consensus cannot be reached then a decision will be made by a majority vote by a show of hands or oral indication unless a ballot is directed by the Chairperson or required by any 2 of the Trustees present at the meeting.
- 12.4 Voting at meetings of the Board shall be by simple majority, except for meetings held pursuant to clause 27.1.
- 12.5 The Chairperson not entitled to a second or casting vote.
- 12.6 If the voting is tied on a motion the motion will be lost.
- 12.7 The Secretary shall post by ordinary mail, or send by email or fax, written notice of the date, time and place of each meeting of the Board to all of the Trustees so that it is received in the ordinary course of the post or email or fax transmission not less than 7 clear days prior to the meeting. This procedure will not apply to meetings called by the Chairperson pursuant to clause 12.13.
- 12.8 A meeting of the Board may be impeached or called into question solely on the ground that the requisite notice has not been given, but only by a Trustee.
- 12.9 A proper written record of all decisions and business transacted at every meeting of the Board shall be kept by the Secretary. The minutes may include notice of the next meeting if fixed at the meeting.
- 12.10 A resolution in writing approved by the Board shall be valid as if it had been passed at a meeting of the Board duly called and held. Any such resolution may consist of several documents in like form each signed by the majority ~~one or more~~ of the Trustees.
- 12.11 The Trustees shall otherwise meet together for the conduct of the affairs of the Trust from time to time and shall regulate and conduct their meetings as they think fit and for such purpose they may

make such rules and regulations as they consider desirable, including, without limitation, rules and regulations relating to the conduct of telephone meetings.

12.12 A quorum for meetings of the Trustees (including Annual Meetings) shall be 3 Trustees [\*Option 27 – *appointer may appoint an advisory trustee\** (excluding advisory Trustees)].

12.13 The Chairperson may call a special meeting of the Board (other than one at which it is proposed to move a resolution under clause 25.1) by any means (including by telephone) at any time provided that the Chairperson in so doing gives at least 7 clear days notice which must include advice of the matters to be considered at the special meeting to each of the Trustees then within New Zealand.

12.14 The Board will operate according to the defined code of conduct and governance rules.

### 13. **Annual Meetings**

13.1 Within 2 months of the execution of this Deed and thereafter within 2 months of the end of each Financial Year a meeting (**Annual Meeting**) shall be called to:

- (a) receive and consider the annual report and review the Board's activities during the preceding year;
- (b) receive, consider and adopt the audited income and expenditure account and balance sheet;
- (c) consider any resolution notice of which shall have been given in writing to the Secretary of the Board at least 14 days before the meeting;
- (d) consider any general business.
- (e) report on the statement of corporate intent for the following year;
- (f) appoint an Auditor who shall not be a Trustee.

### 14. **Delegation by the Board**

14.1 The Board shall have, to the extent permitted by law, full power to delegate to:

- (a) any Trustee;
- (b) any officers or employees of the Board; or
- (c) any attorney, agent or other person nominated or appointed by the Board,

all or any of the powers, authorities and discretions exercisable by the Board under this Deed, but without in any way releasing the Board from its obligations under this Deed.

14.2 Centre Manager shall:

- (a) be an ex-officio non-voting Board member. Their presence does not count towards meeting quorum requirements.
- (b) regularly report to the Board on strategy, planning, outcomes achieved, issues, financial outcomes, project recommendations, and community needs analyses.

- (c) shall be responsible for acting on and implementing the decisions of the Board,

#### 14.3 Board Subcommittees

- (a) The Board may appoint 1 or more of its members to be a subcommittee for making any enquiry, or for superintending, or for transacting any business on behalf of the Trust
- (b) A subcommittee must have a Board member as lead of that committee
- (c) Each subcommittee established is to have a purpose, objectives, and timelines for deliverables agreed with the Board, along with any delegations and commitments that may be entered into by the subcommittee on behalf of the Trust
- (d) Volunteers, residents, and co-opted parties may also be appointed to a subcommittee in addition to a Board member(s) to conduct the business of the subcommittee. Such appointments are to be based on the skills and the needs of the subcommittee to achieve its objectives
- (e) Recommendations from subcommittees are to be submitted to the Board to be received and actions agreed and subsequently incorporated into the appropriate Board minutes.

#### 15. **Bank Accounts and Property**

- 15.1 The Trust Assets will be held by and in the joint names of the Trustees until the Board is incorporated as a Board under the provisions of the Charitable Trusts Act 1957, in which case it will be held by and in the name of the Board.
- 15.2 Bank accounts shall be operated on the signatures of a minimum of any 2 \*35. *minimum number of bank account signatories\** of the Trustees, but one of the signatories must be the Chairperson or the Treasurer.
- 15.3 The Treasurer or other officer of the Board shall have the power to receive and give receipts for all legacies, donations, subscriptions or other moneys bequeathed, made or given to the Trust and every such receipt shall be an effective discharge for the money or other money stated to have been received.

#### 16. **Execution of Documents**

- 16.1 When the Board is incorporated under the Charitable Trusts Act 1957, documents to be executed by the Board shall be executed under its common seal and attested by any 2 of the Trustees, one of whom shall be the Chairperson.

#### 17. **The Common Seal**

- 17.1 The Secretary shall keep the Common Seal at the registered office of the Trust
- 17.2 The Seal shall not be affixed to any instrument except in pursuance of a resolution of the Board and in the presence of two members of the Board.

## 18. Incorporation

18.1 The Trustees shall immediately apply for incorporation under Part 2 of the Charitable Trusts Act 1957 as a Board under the name *"\* 37. name of board\*"*.

## 19. Membership

19.1 The Board may establish a membership. The Trustees may:

- (a) invite persons, firms and corporations who wish to support or take an interest in the Purposes to become members of the Trust;
- (b) establish different classes of membership;
- (c) fix and charge membership fees (including joining fees and subscriptions) for members or each class of members, as the case may be;
- (d) call members' meetings;
- (e) subject to clause 19.2 determine the rules relating to membership and confer membership rights on members; and
- (f) issue membership certificates or other evidence of membership.

19.2 Limitations on personal benefit arising from membership rights:

- (a) All income, benefit or advantage shall be applied to the Purposes of the Trust.
- (b) No member of the Trust or any person associated with a member shall participate in or materially influence any decision made by the Board in respect of the payment to or on behalf of that member or associated person of any income, benefit or advantage whatsoever.
- (c) Any such income paid shall be reasonable and relative to that which would be paid in an arm's length transaction (being the open market value).
- (d) The provision and effect of this clause shall not be removed from this document and shall be included and implied into any document replacing this document.
- (e) Membership shall not confer on any member the right to vote at any meeting of the Trust or the Board or to control the Trustees or the Board in the exercise of their powers.

## 20. Accounts

- (a) The Board will cause complete and accurate records to be kept in such manner as it thinks fit of all its receipts, credits, payments, liabilities and other matters necessary for showing the true state and condition of the Trust.
- (b) The annual accounts of the Trust shall be prepared by an independent accountant appointed for that purpose by the Board. To avoid any doubt the independent accountant may be an accountant employed by the Settlor.

- (c) The books of account shall be kept at the office of the Trust and shall be open at all reasonable times to inspection and copy by any of the Trustees.
- (d) The Board will have the Trust's accounts audited each year by an independent auditor appointed by the Board

20.2 The Board will properly receive all payments and property paid or transferred to the Trust, will properly meet all liabilities and responsibilities incurred or undertaken by it, and will properly administer the Trust Assets.

## 21. Tax Returns and Annual Returns

21.1 The Board shall cause to be prepared or filed with the Inland Revenue Department and Charities Services all necessary tax accounts, annual returns, reports, declarations, notices, certificates, reconciliations and other information required to be prepared or filed so as to allow the Trust to retain its charitable status for taxation purposes and to meet all of its obligations under the Acts administered by the Inland Revenue Department and Charities Services.

## 22. Declarations of Interest

22.1 No Trustee shall vote on any matter in which he or she has any personal or pecuniary interest or in which any company or other body in which the Trustee has a personal or financial interest itself has any pecuniary interest.

22.2 Any Trustee shall declare any such interest in writing as soon as the Trustee concerned becomes aware of the existence of the interest, the declaration to include all relevant detail needed to result in a full and fair disclosure. All Trustees shall act in good faith in all such matters.

## 23. Remuneration of Trustees and Payments of Expenses

23.1 None of the Trustees shall be paid any remuneration for time spent as a Trustee, but shall be entitled to such expenses incurred in that capacity as the Board may from time to time authorise or ratify by resolution. The intent is that no Trustee shall derive pecuniary gain from his or her office as a Trustee, or from any act done in the capacity of a Trustee, but may be paid expenses if the Board so resolves.

23.2 Subject to clause 23.3, any Trustee shall be entitled to be paid all usual professional, business and trade charges for business transacted, time expended and all acts done by him or her or any employee or partner of his or hers in connection with the trusts of this Deed, other than acting as a Trustee.

23.3 No Trustee receiving any remuneration referred to in clause 23.2 shall take part in any deliberations or proceedings relating to the payment or otherwise of that remuneration nor shall that Trustee in any way determine or materially influence directly or indirectly the nature or amount of that payment or the circumstances in which it is to be paid. Any such remuneration must be approved in writing by the Board.

## 24. **No Private Pecuniary Profit**

24.1 Nothing expressed or implied in this Deed shall permit the activities of the Trust or any business carried on by or on behalf of or for the benefit of the Trust to be carried on for the private pecuniary profit of any individual.

## 25. **Alterations and Additions**

25.1 Subject to clauses 19.2(d) and 25.2, the Board may resolve to amend any provisions of this Deed. Any resolution to effect an alteration or addition must be passed by a majority of not less than two-thirds of the Trustees at a meeting of the Board where not less than 21 clear days' prior written notice of intention to move the amendment is given to all the Trustees.

25.2 No amendment may be made to the Trust Deed in any respect which would have the effect of causing the Trust to cease to be a charitable trust or to amend the Purposes to include any objective which is not a charitable objective or one to be achieved outside New Zealand or to amend clauses 5, 19.2, 22, 24, 25 and 27.

25.3 Notwithstanding anything set out in clauses 25.1 or 25.2 the Board shall amend this Deed to comply with the Tax Act or the Charities Act.

## 26. **Liability of Trustees**

26.1 The Board is expressly authorised to exercise the powers of investment expenditure and acquisition conferred upon it notwithstanding that the Trust Assets may be subject to any liability or liabilities and the Trustees shall not be liable for any loss occurring on the realisation of any asset which pursuant to the exercise of those powers comprises part of the Trust Assets.

26.2 To the extent permitted by law no Trustee shall be subject to any duties except:

- (a) The duty to act honestly and the duty not to commit wilfully any act known to be a breach;
- (b) The duty not to omit wilfully any act when the omission is known by the Trustee to be a breach of trust.

26.3 To the extent permitted by law, no Trustee shall be liable for any loss suffered or incurred by the Trust unless the loss arises directly from the Trustee's own dishonesty, or from the wilful commission by the Trustee of any act known by the Trustee to be a breach of trust, or from the wilful omission by such Trustee of any act when that omission was known by the Trustee to be a breach of the trust.

26.4 No Trustee shall be bound to take any proceedings against a co-Trustee for any breach or alleged breach of trust by that co-Trustee.

26.5 A Trustee shall be indemnified by and out of the Trust Assets (whether as to the capital or the income thereof) for and in respect of any loss or liability incurred by the carrying out or omission of any function duty or power of the Trustees under this Deed unless such loss or liability is attributable to such Trustee's dishonesty or to the wilful commission by such Trustee of an act known by such Trustee to be a breach of trust or to the wilful omission by such Trustee of any act when that omission was known by the Trustee to be a breach of trust.

26.6 The Board may effect insurance for the Trustees and will meet all costs associated with such insurance.

**27. Winding Up**

- 27.1 The Trust may be wound up on a unanimous resolution of all the Trustees at a meeting of the Board called for that purpose.
- 27.2 In the event of the Trust being wound up and after all liabilities of the Trust have been discharged the Board shall:
- (a) Transfer all remaining funds and assets comprising the Trust Assets to another organisation in New Zealand which is exclusively charitable and which has purposes similar to those of the Trust. The receipt of the treasurer or secretary or other proper officer of such trusts or organisations shall be a sufficient discharge to the Board and the Board will not be bound to further see to the application of those funds and assets.
- 27.3 If the Board is unable to make such decisions the Trust Assets shall be disposed of in accordance with the directions of the High Court under section 27 of the Charitable Trusts Act 1957.

**28. Mediation and Arbitration**

Any dispute arising out of or relating to this Deed may be referred to mediation, a non-binding dispute resolution process in which an independent mediator facilitates negotiation between parties. Mediation may be initiated by either party writing to the other party and identifying the dispute which is being suggested for mediation. The other party will either agree to proceed with the mediation or agree to attend a preliminary meeting with the mediator to discuss whether mediation would be helpful in the circumstances.

**29. Matters not provided for**

If any matter is not provided for in this Deed, the Trustees shall decide the matter as they see fit

**30. Governing Law**

- 30.1 The Trust shall be governed by and construed in accordance with the laws of New Zealand.

**Signed by**

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